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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRUCE EDWARD ATKINS,
a/k/a "Shit,"

Defendant.

No. CR/08-00815 CRB; CR-04-0016 CRB

~~PROPOSED~~ ORDER DETAINING
DEFENDANT BRUCE EDWARD
ATKINS PENDING TRIAL AND
EXCLUDING TIME UNDER THE
SPEEDY TRIAL ACT

Date: February 6, 2009
Time: 9:30 a.m.
Court: Hon. Maria-Elena James

The defendant, Bruce Edward Atkins, is charged with one count of distribution of cocaine base in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C). Additionally, it is alleged that defendant committed four violations of the terms of his supervised release as set forth in the Amended Petition for Arrest Warrant for Offender Under Supervision in Case No. CR-04-0016 CRB ("Petition"). On February 6, 2009, this Court heard the United States' motion to detain defendant without bail pending trial. Defendant Atkins was present, in custody, and represented by counsel. The parties proceeded, without objection, by proffer. Both parties had an opportunity before the hearing to review a report prepared by the United States Pretrial Services Agency.

[PROPOSED] ORDER RE: DETENTION AND TIME EXCLUSION
CR 08-00815 CRB; CR-04-0016 CRB

1 After considering the evidence and the parties' arguments, this Court Orders that
2 defendant be detained pending trial. The Court finds by clear and convincing evidence that
3 defendant poses a serious risk of danger to the community.

4 For the reasons stated on the record at the detention hearing, including the following, the
5 Court finds that under 18 U.S.C. § 3142(e), no condition or combination of conditions will
6 reasonably ensure the safety of the community: According to the indictment and the proffer by
7 the government at the detention hearing, defendant committed several violations of the
8 conditions of his supervised release and the law since his release during the pendency of the
9 Petition on July 2, 2008, including the distribution of cocaine base to a confidential informant on
10 or about August 12, 2008, failure to appear for a required drug test on or about August 6, 2008,
11 and defendant tested positive for marijuana on or about November 5, 2008.

12 Additionally, the parties agreed to an exclusion of time under the Speedy Trial Act (18
13 U.S.C. § 3161) from February 6, 2009 to February 18, 2009, in light of the need for defendant's
14 counsel to review discovery. Failure to grant the requested continuance would unreasonably
15 deny defense counsel reasonable time necessary for effective preparation, taking into account the
16 exercise of due diligence. Given these circumstances, the Court found that the ends of justice
17 served by excluding the period from February 6, 2009 to February 18, 2009 outweigh the best
18 interest of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A).

19 Based on the foregoing, the United States' motion for detention is GRANTED and time is
20 excluded under the Speedy Trial Act between February 6, 2009 and February 18, 2009. IT IS
21 HEREBY ORDERED that:

- 22 1. Defendant Atkins be detained pending trial pursuant to 18 U.S.C. § 3142;
- 23 2. Defendant Atkins be, and hereby is, committed to the custody of the
24 Attorney General for confinement in a corrections facility separate, to the extent practicable,
25 from persons awaiting or serving sentences or being held in custody pending appeals;
- 26 3. Defendant Atkins be afforded reasonable opportunity for private
27 consultation with his counsel;

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